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1 Attorneys for Plaintiff

2 UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF CALIFORNIA
4 SAN FRANCISCO DIVISION

5 MARCI MARTINELLI,
6 individually and on behalf of the
7 California public,

8 Plaintiff,

9 v.

10 TRANS UNION CORPORATION,
11 a Delaware corporation;
12 ACXIOM CORPORATION,

13 a Delaware corporation;
14 and Does 1 through 100, inclusive,

15 Defendants.

16 MICHAEL ROSEN, on behalf of
17 himself and all other persons
18 similarly situated,

19 Plaintiff,

20 v.

Civil No. 99-1867 WHA
{Rel'd. case: 99-0632 WHA}

PLAINTIFF
MARTINELLI'S FIRST
REQUEST FOR
PRODUCTION OF
DOCUMENTS

TRANS UNION CORPORATION,
Defendant.

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Pursuant to Rule 34 of the Federal Rules of Civil Procedure, plaintiff Marci Martinelli ("Plaintiff") hereby requests that defendant Trans Union Corporation ("Trans Union") produce for inspection and copying the following documents and other things, within its possession, custody or control. The production shall occur at the offices of Righetti Law Firm, 220 Montgomery Street, Suite 1650, San Francisco, California, or at such other location as is agreed to by counsel for the parties, on October 26, 1999.

DEFINITIONS AND INSTRUCTIONS

The following requests are subject to the definitions set forth below:

A. "Trans Union" refers to Trans Union, its predecessors, directors, officers, agents, servants, employees, attorneys, subsidiaries, affiliates, divisions or any other related companies or divisions, including PerformanceData, Marketing Services, Trans Mark and Trans Union Lists.

B. "CRONUS" refers to Trans Union's credit reporting database.

C. "Master File" refers to all original, copy, archived or predecessor versions of Trans Union's database, batch file or electronically-stored information for target marketing, including, but not limited to, lists entitled "Master File," "Base List" and "List Master File," as well as the "MasterFile" referred to on PerformanceData's web site located at HYPERLINK <http://www.performancedata.com> www.performancedata.com.

D. "Performance Base file" refers to all original, copy, archived or predecessor versions of Trans Union's database referred to as "PerformanceBase" on

1 its web site located at HYPERLINK <http://www.performancedata.com>
2 www.performancedata.com, or referred to as "RelationBase."

3 E. "New Issues file" refers to all original, copy, archived or predecessor
4 versions of Trans Union's database, batch file or electronically-stored information
5 which is created by selecting from CRONUS names and addresses of consumers
6 with at least two tradelines, one of which has an open date within the last 90 days.

7 F. "Target Marketing list" refers to lists of names and addresses and/or
8 telephone numbers of consumers which are provided, distributed or otherwise
9 disclosed to Trans Union's target marketing customers or their agents who are
10 offering goods and services to consumers. This definition includes "target
11 marketing list" as that term is used in Appellant-Respondent Trans Union
12 Corporation's Public Record Version Brief In Support Of Appeal in Case No D-9255,
13 before the Federal Trade Commission at page 10 ("PerformanceData provides target
14 marketing lists of names and addresses to its customers who are offering goods and
15 services to consumers"), but does not include lists disclosed for the purpose of
16 making a "firm offer of credit or insurance" as defined in the Fair Credit Reporting
17 Act, 15 U.S.C. §1681a(l).

18 G. "Target marketing products" refers to models, estimates and other
19 similar products used by Trans Union to generate lists of names and addresses
20 and/or telephone numbers of consumers which are provided, distributed or
21 otherwise disclosed to Trans Union's target marketing customers or their agents
22 who are offering goods and services to consumers, including but not limited to such
23 products as E-VAL, PIC, P\$YCLE, SOLO, TIE and any other products used to estimate
24 the home equity, net worth or other similar financial characteristics of consumers.

25 H. "Trans Link" refers to all current or predecessor versions of Trans
26 Union's product which "reverse appends" a name and address with a bank card
27 number.

I. "Document" or "documents" shall mean the original and all non-identical copies of written, printed, typed and visually, orally or electronically reproduced material of any kind, whether or not privileged, which is in the possession, custody or control of Trans Union, including, but not limited to, writings, drawings, graphs, charts, photographs, electronic ("E-mail") communications, computer tapes and other data compilations from which information can be obtained or translated, if necessary, by Trans Union through detection devices into reasonably usable form, including computer databases, batch files or other electronically-stored information.

J. "FTC Proceeding" shall mean the proceeding before the Federal Trade Commission styled In the Matter of Trans Union Corporation, Docket No. 9255.

K. With the exception of requests nos. 15 through 30, the time period for these requests is January 1, 1995 to the present. The time period for requests nos. 15 through 30 is December 15, 1992 to the present.

L. The singular shall include the plural and the plural shall include the singular.

M. As used herein, the conjunctive term "and" shall include the disjunctive term "or," and vice versa.

N. Should Trans Union withhold any document sought by any of the following requests, Trans Union shall, in its written response, describe such document by stating the following as to each such document: (1) the document date; (2) the name of the person(s) who signed, sent or prepared the document; (3) the name of the person(s) to whom the document was addressed or copied; (4) the general nature or description of the document (i.e., letter, memorandum, minutes of a meeting, etc.) and the number of pages of which it consists; and (5) the legal basis for withholding the document and a description of the subject matter of the

1 document sufficient to show why the legal basis for withholding the document is
2 applicable in each instance.

3 O. Plaintiff's request of any documents sought herein shall not constitute
4 a concession that any such documents should not have been produced in
5 connection with Trans Union's initial disclosures under Fed.R.Civ.P. 26 or Civil
6 L.R. 16-5.

7 REQUESTS

8 1. All documents reflecting or referring to communications between
9 Trans Union and its target marketing customers that concern, evidence, reflect or
10 refer to target marketing lists.

11 2. A hard copy or printout of all information pertaining to Plaintiff in
12 CRONUS.

13 3. A hard copy or printout of all information pertaining to Plaintiff in
14 each copy or version of Trans Union's Master File.

15 4. A hard copy or printout of all information pertaining to Plaintiff in
16 each copy or version of Trans Union's Performance Base File.

17 5. A hard copy or printout of all information pertaining to Plaintiff in
18 each copy or version of Trans Union's New Issues File.

19 6. One copy of each version of Trans Union's Master File.

20 7. One copy of each version of Trans Union's Performance Base File
21 which has been used to generate target marketing lists for purposes other than
22 making a "firm offer of credit or insurance" as defined in the Fair Credit Reporting
23 Act, 15 U.S.C. §1681a(l).

24 8. One copy of each version of Trans Union's New Issues File.

25 9. All documents reflecting or referring to the identity of Trans Union's
26 target marketing customers.

- 1 20. All written discovery responses by Trans Union in the FTC proceeding.
- 2 21. All written discovery responses by complaint counsel in the FTC
- 3 proceeding.
- 4 22. All documents reflecting expert reports which were exchanged or
- 5 disclosed in the FTC proceeding.
- 6 23. All transcripts of testimony (deposition, trial, etc.) of Trans Union
- 7 personnel, Trans Union witnesses, Trans Union experts, complaint counsel
- 8 witnesses, complaint counsel experts, third-party personnel, third-party witnesses
- 9 and third-party experts generated in the FTC proceeding.
- 10 24. All declarations and affidavits of Trans Union personnel, Trans Union
- 11 witnesses, Trans Union experts, complaint counsel witnesses, complaint counsel
- 12 experts, third-party personnel, third-party witnesses and third-party experts
- 13 submitted in the FTC proceeding.
- 14 25. All exhibits offered, entered and/or received into evidence in the trial
- 15 before Judge Timony in the FTC proceeding.
- 16 26. All exhibits marked and used at any depositions in the FTC proceeding.
- 17 27. All documents reflecting or referring to Trans Union's continuing or
- 18 discontinuing, or altering its practices pertaining to, the use of any selects, indicators,
- 19 extracts or other criteria in connection with its target marketing list business.
- 20 28. All documents reflecting or referring to Trans Union's continuing or
- 21 discontinuing, or altering its practices pertaining to, the use of any target marketing
- 22 products in connection with its target marketing list business.
- 23 29. All documents reflecting or referring to the FTC's 1993 consent order
- 24 with TRW Inc. regarding target marketing lists.
- 25 30. All documents reflecting or referring to whether or not the disclosure,
- 26 sale and/or distribution of any of Trans Union's target marketing lists or target
- 27 marketing products violates the Fair Credit Reporting Act ("FCRA"), the Consumer
- 28

1 Credit Reporting Agencies Act ("CCCRA") or any other federal or California state
2 law.

3 31. All documents reflecting or referring to Trans Union's continuing or
4 discontinuing, or altering its practices pertaining to, the disclosure, sale and/or
5 distribution of any target marketing lists or target marketing products in or around
6 October 1997.

7 32. All documents reflecting or referring to Trans Union's no longer
8 including certain information in its Master File commencing in or around October
9 1997.

10 33. All documents reflecting or referring to Trans Union's continuing or
11 discontinuing, or altering its practices pertaining to, the disclosure, sale and/or
12 distribution of any target marketing lists or target marketing products in or around
13 January 1998.

14 34. All documents reflecting or referring to Trans Union's no longer
15 including certain information in its Master File in late 1997 or early 1998.

16 35. All documents reflecting or referring to the creation in late 1997 or
17 early 1998 of the Performance Base file.

18 36. All documents reflecting or referring to Trans Union's continuing or
19 discontinuing, or altering its practices pertaining to, the disclosure, sale and/or
20 distribution of any target marketing lists or target marketing products in or around
21 April 1998.

22 37. All documents reflecting or referring to Trans Union's no longer
23 including certain information in its Master File in or around April 1998.

24 38. All documents referring to the 1996 amendments to the FCRA which
25 became effective October 1, 1997 and to Trans Union's sale, disclosure or distribution
26 of its target marketing lists or target marketing products.

1 49. All documents reflecting lists of the titles and responsibilities of all
2 employees of PerformanceData and its predecessors

3 50. All documents reflecting, referring or relating to Trans Union's privacy
4 protocol, except for documents reflecting, referring or relating thereto which address
5 only security measures available to prevent unauthorized access to Trans Union's
6 databases.

7 51. All trial witness lists and trial exhibit lists submitted in the FTC
8 proceeding.

9 52. All documents reflecting or referring to the extent of consumers'
10 awareness of their right to opt-out of Trans Union's target marketing lists.

11 53. All documents reflecting or referring to Trans Union's efforts to make
12 consumers aware of their right to opt-out of Trans Union's target marketing lists.

13
14 Dated: September 16, 1999

RIGHETTI LAW FIRM

15
16 By _____

17 Matthew Righetti
18 Attorneys for plaintiff
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PROOF OF SERVICE

I, Dawn Taylor, declare that I am employed in the County of San Francisco, California. I am over the age of eighteen (18) years and not a party to the within cause; my business address is 220 Montgomery St. Suite 1650, San Francisco, California 94104.

On September 20, 1999, I caused to be served the attached:

PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

in said cause, by placing a true copy thereof enclosed in a sealed, envelope addressed as follows:

D Ronald Ryland, Esq.

John D. Pernick, Esq.

SHEPPARD, MULLINS, RICHTER & HAMPTON, LLP

Four Embarcadero Center, 17th Floor

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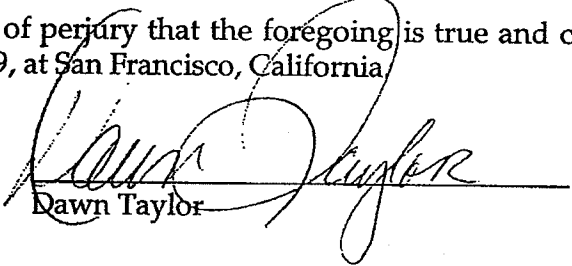
1
2
3 Amy Stewart, Esq.
4 Rose Law Firm
5 120 East Fourth St.
6 Little Rock, AR 72201
7 Fax (501) 375-1309

8 (xxx) BY MAIL I placed each such sealed envelope, with postage
9 thereon fully prepaid, for collection and mailing at San Francisco, California,
10 following ordinary business practices. I am readily familiar with the practice of
11 the Righetti Law Firm for processing of correspondence, said correspondence is
12 deposited in the United States Postal Service the same day as it is placed for
13 processing.

14 () BY PERSONAL SERVICE caused each such envelope to be
15 delivered by hand to the addressee(s) noted above.

16 () BY FACSIMILE I caused the contents of said envelope to be
17 delivered by Facsimile machine to the number indicated after the address(es)
18 noted above.

19 I declare under penalty of perjury that the foregoing is true and correct.
20 Executed on September 20, 1999, at San Francisco, California

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Dawn Taylor